

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**KENNETH JEAN and PAMELA PRICE
JEAN,**

Plaintiffs,

v.

**TOWN OF ASHBURNHAM POLICE
DEPARTMENT, TOWN OF WINCHENDON
POLICE DEPARTMENT, ROB
HARRINGTON, in his capacity as CHIEF OF
THE WINCHENDON POLICE
DEPARTMENT, JACK MURRAY, in his
capacity as CHIEF OF THE ASHBURNHAM
POLICE DEPARTMENT, TODD C. PARSONS,
RAYMOND M. ANAIR, ROBERT BRENNAN,
WILLIAM P. GEOFFROY, BRIAN HART,
KEVIN AHEARN, KEVIN E. WOLSKI,
OFFICER JOHN DOE, OFFICER JOHN POE,**

Defendants.

CIVIL ACTION NO. 03-12306-FDS

**AFFIDAVIT OF ANDREW J. GAMBACCINI IN SUPPORT OF FEE AWARD
PURSUANT TO THE ORDER OF THIS COURT DATED AUGUST 10, 2006**

Now comes the undersigned affiant who hereby swears, affirms and states as follows:

1. My name is Andrew J. Gambaccini and I am an attorney of record for Defendants Jack Murray, Todd C. Parsons and Robert Brennan in the above-captioned matter.
2. On August 10, 2006, this Court issued a Memorandum of Decision and entered an Order denying the Plaintiffs' Motion for Reconsideration and Substitute Motion for Reconsideration in connection with a June 16, 2006 Order of this Court on the subject of the Plaintiffs' attempts to amend the operative Complaint.

3. This August 10, 2006 Order further authorized counsel for the Defendants to file “an affidavit detailing their reasonable attorneys’ fees and expenses in opposing the motions for reconsideration.”

4. I have reviewed the billing records of my firm regarding this matter, a review that has revealed that I billed a total of 5.55 hours in connection with opposing the Plaintiffs’ motions for reconsideration.

5. More particularly, this period of time to which I devoted to opposing the Plaintiffs’ motions for reconsideration consisted of the following: (1) the review and analysis of the Plaintiffs’ Motion for Reconsideration and, subsequently, the Substitute Motion for Reconsideration; (2) communicating with Attorneys Cloherty, Pelletier and Ryan with respect to strategy on the motions for reconsideration; (3) the drafting of an Opposition to the Plaintiffs’ Motion for Reconsideration; (4) the revision of that opposing paperwork in light of the filing of a Substitute Motion for Reconsideration; (5) further communications with counsel on the draft opposing paperwork; and, (6) the finalization of the Opposition for filing with this Court.

6. In the context of announcing a standard for determination of appropriate attorneys’ fees awards, the Court of Appeals for the First Circuit has adopted the “lodestar” approach. *Gay Officers Action League v. Commonwealth of Puerto Rico*, 247 F.3d 288, 295 (1st Cir. 2001). This approach in assessing attorneys’ fees calls for an amount determination that equals the reasonable number of hours expended on the litigation multiplied by a reasonable hourly rate for such services. *Id.*

7. As indicated earlier, I was the principal drafter of the Opposition to the Plaintiffs’ motions for reconsideration and that task, in addition to coordinating with other defense counsel

on matters related to the Opposition, resulted in the expenditure of 5.55 hours of billable time.

8. With respect to the evaluation of a reasonable hourly rate in the lodestar approach, the First Circuit has indicated that such consideration is to center upon the “prevailing rates in the community (taking into account the qualifications, experience[] and specialized competence of the attorneys involved).” *Id.*

9. To begin, I am an associate at the Worcester firm of Reardon, Joyce & Akerson, P.C. Although representing law enforcement officers for a number of years prior, in 1974 the founder of my firm, Edward P. Reardon, founded, in conjunction with the Massachusetts Police Association, the Legal Defense Fund of the Massachusetts Police Association. This formal relationship has continued over the past thirty-two years and, as a result, the primary area of practice for members of my firm has been the representation of law enforcement officers in myriad federal and state judicial fora, as well as in all manner of municipal or administrative settings. I have been associated with the firm of Reardon, Joyce & Akerson, P.C. since 1999, beginning as a law clerk tasked with responsibilities related to research and writing, continuing as such during my matriculation in law school and, since 2003, associated with the firm as an attorney.

10. I am a magna cum laude graduate of the University of Connecticut School of Law, having been ranked third in my graduating class of 164. While in law school, I was a member of the Moot Court Board and the National Italian American Bar Association, served as a lead articles editor for the Connecticut Insurance Law Journal and for two years served as a constitutional law teaching assistant for Professor Loftus E. Becker, Jr. Also during law school, I received the Federal Bar Council’s Cornelius Wickersham Award in Constitutional Law as well as CALI

awards for excellence in the study of contracts, in constitutional law and in an advanced constitutional law class focused upon the structural limitations associated with federalism and the separation of powers.

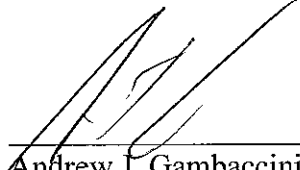
11. Following my graduation from law school, I served as a law clerk to the Honorable Flemming L. Norcott, Jr., Associate Justice of the Connecticut Supreme Court.

12. At present, my practice is devoted almost exclusively to the representation of law enforcement officers in a variety of litigation or administrative settings. A substantial component of that representation is defending law enforcement officers in the context of civil rights litigation such as this.

13. Based upon my qualifications, experience and specialized competence in representing law enforcement officers in civil rights lawsuits, as well as my knowledge of rates for similarly situated attorneys in Worcester, I am requesting a lodestar in the amount of \$ 150.00 per hour.

14. Based upon this rate, and the time expended in opposing the Plaintiffs' motions for reconsideration, I am requesting an award of fees in the amount of \$ 832.50.

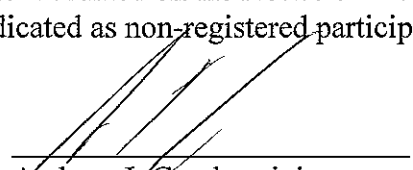
Signed under the pains and penalties of perjury this 8th day of September, 2006.



Andrew J. Gambaccini
Reardon, Joyce & Akerson, P.C.
397 Grove Street
Worcester, MA 01605
508.754.7285

CERTIFICATE OF SERVICE

I hereby certify that the foregoing, filed through the Electronic Case Filing System, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that a paper copy shall be served upon those indicated as non-registered participants on September 8, 2006.



Andrew J. Gambaccini